

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON

3 THE UNITED STATES OF AMERICA,)
4 Plaintiff,) No. CR 11-422 JLR
5 vs.)
6 GURJIT SINGH SANDHU,)
7 Defendant.)
8 _____)

9 VERBATIM TRANSCRIPT OF PROCEEDINGS

10 OF

11 A DETENTION HEARING

12 BEFORE THE HONORABLE BRIAN A. TSUCHIDA, MAGISTRATE JUDGE

13 12/22/2011

14 APPEARANCES

15 For Plaintiff: Lisca Borichewski

16 For Defendant: Paula Deutsch
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1 (Proceedings of 12/22/2011)

2 THE CLERK: All rise. United States District
3 Court for the Western District of Washington is now in
4 session, the Hon. Brian A. Tsuchida presiding.

5 THE COURT: Good afternoon. Please be seated.

6 MS. BORICHEWSKI: Good afternoon, Your Honor.

7 THE CLERK: Your Honor, the matter before you is
8 scheduled for a detention hearing in cause number MJ 11-610,
9 United States v. Gurjit Sandhu.

10 Will counsel please make appearances?

11 MS. BORICHEWSKI: Good afternoon, Your Honor,
12 Lisca Borichewski on behalf of the United States.

13 THE COURT: And Ms. Borichewski, good afternoon.

14 MS. DEUTSCH: Good afternoon, Your Honor, Paula
15 Deutsch on behalf of Gurjit Singh Sandhu.

16 This is with the Court's permission. Lynn Hartfield
17 from my office is actually Mr. Sandhu's attorney and she is
18 out of town at the moment.

19 THE COURT: All right, and Mr. Singh, you
20 understand Ms. Hartfield, who was appointed to represent
21 you, is not available, and it is okay with you to go forward
22 with Ms. Deutsch?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: All right.

25 All right, we are here for your detention hearing, and

1 I have received the most recent Pretrial Services report.

2 Ms. Borichewski, what is the government's position?

3 MS. BORICHEWSKI: Your Honor, the government is
4 requesting that the defendant remain detained pending the
5 outcome of these proceedings.

6 As this court is well aware, the offense that is
7 charged in the present case involves a mandatory minimum
8 term of 10 years in prison, a maximum term of life in
9 prison; for that reason the defendant is facing a
10 substantial penalty and has a substantial incentive to flee
11 and not return to this country.

12 The conditions of release are requesting that he
13 actually return and reside in Canada, where he is not a
14 citizen.

15 He is a citizen of the United Kingdom -- and certainly
16 has the ability to travel back to that country.

17 Additionally, Your Honor, the defendant was arrested in
18 that country, in Canada, recently -- May 2011 -- for
19 obstruction of justice, and possession of a fraudulent
20 credit card, and those criminal charges are pending in
21 Canada.

22 It is noteworthy then, while the defendant has had
23 recent contact with law enforcement, has criminal charges
24 pending, he is alleged to have engaged in a very serious
25 offense involving the distribution of over 10 kilograms of

1 cocaine, which is worth over a half million dollars in
2 Canada.

3 Your Honor, as outlined in the complaint, and based on
4 statements from the codefendants that are charged in this
5 matter, the defendant, Gurjit Singh Sandhu, was the leader.
6 He recruited a 20-year-old girl to participate in this
7 criminal activity to transport kilograms of cocaine into
8 Canada, and the codefendant, also identified this defendant,
9 Mr. Sandhu, as the individual that promised to pay him.

10 In his leadership role, certainly the government has
11 additional concerns in terms of him being released and him
12 potentially further engaged in the obstruction of justice as
13 he is currently charged in Canada at this time.

14 Your Honor, given the facts of this case, there is a
15 rebuttable presumption. There are simply no conditions that
16 rebut the presumption for his detention; specifically that
17 he be allowed to reside in another country where he is not a
18 citizen, and we would ask that he be detained.

19 THE COURT: All right.

20 And Ms. Deutsch, go ahead, please.

21 MS. BORICHEWSKI: Your Honor, I have one maybe
22 additional point that I forgot to mention.

23 THE COURT: All right, go ahead.

24 MS. BORICHEWSKI: It might speak for itself, and
25 I know Your Honor has read that in the complaint. I think

1 one component that is very telling about someone who we are
2 basically relying on his goodwill to come back from
3 Canada -- in this particular incident, when he was contacted
4 by law enforcement at the Smugglers Inn, in Canada, told to
5 stop, he tried to flee, and he was caught very near the
6 Canadian border. He did not comply with the demands of law
7 enforcement officers at that time, and that certainly gives
8 the government additional concern, concerning his return to
9 Canada.

10 THE COURT: All right.

11 All right, Ms. Deutsch, go ahead, and I did receive the
12 letters on behalf of your client, Mr. Singh Sandhu.

13 MS. DEUTSCH: Your Honor, the defendant is 24
14 years old. He has very strong community ties in British
15 Columbia. He has lived in Canada since 1998 or 1999. He
16 was about 11 years old when he moved to Canada with his
17 parents.

18 He has much of his family in Canada. He has almost no
19 family left in England.

20 He has always lived in the Surrey area of British
21 Columbia, ever since he came in 1998 or 1999, and he has
22 lived at the same address for the past five years with his
23 parents.

24 His father, Desrage (phonetic) Sandhu, and his mother,
25 Colvinder (phonetic) Sandhu are in the audience, Your Honor,

1 as is his girlfriend of four years, Joti Banes (phonetic).

2 Now that also is important, the fact that he has had a
3 four-year relationship with Ms. Baines.

4 She works at the Surrey School District as a child and
5 youth care counselor, and she's also enrolled in a BA
6 program at the University of Victoria.

7 And as for Mr. Sandhu, he himself is a high school
8 graduate. He is currently enrolled at the British Columbia
9 Institute of Technology.

10 He is doing aircraft turbine mechanics.

11 He is a certified firefighter, and he got his
12 certification in Texas at a school there.

13 Currently he is the manager and now also the owner of
14 Advanced Motor Sports, which is a body shop, and they also
15 sell electronic equipment for vehicles. He works there
16 full-time.

17 His friends wrote a number of lovely letters on his
18 behalf, and they talk about his charity work. He is
19 involved in clothing donation programs, food drives, and
20 also he was a support for Olympic security.

21 And I would like to address this whole issue about the
22 fact that he is a Canadian. He is a landed immigrant,
23 basically; he is a citizen of England, that's true. There
24 really isn't a reason for him to flee to England because he
25 doesn't have family there, except extended family there.

1 His family is in British Columbia.

2 As you know, Your Honor, the Pretrial Services Office
3 has had this program where the supervisors the Canadians at
4 the border, and we had contacted Julie Busic a day or two
5 ago, and she sent us the statistics.

6 In the years 2010 and 2011, there has been no
7 absconding by Canadian clients because of this program, and
8 I feel personally very much it is because of Julie Busic and
9 the way she supervises the Canadians, and that is the reason
10 they are coming back, but they are coming back.

11 I realize this is a 10-year mandatory minimum. He is
12 not the first Canadian who has had a case with a 10-year
13 mandatory minimum, and those Canadians have come back.

14 So I am asking this court to release him on his own
15 recognizance under the supervision of Pretrial Services and
16 any other requirements that the Court may have. Thank you.

17 THE COURT: All right, thank you very much.

18 And Ms. Borichewski, any rebuttal or further comments?

19 MS. BORICHEWSKI: No, thank you, Your Honor.

20 THE COURT: All right.

21 Mr. Sandhu, I am unfortunately going to deny your
22 request for release. This is a presumption case and you do
23 have a burden to overcome the presumption of detention, and
24 I will find that you have not.

25 You do face, if convicted, a mandatory 10 years of

1 imprisonment.

2 The nature of the offense is a very serious one.

3 Your alleged role in the offense is quite high compared
4 to other folks, and I say this is important because I
5 suppose it is measured against all the good works and all
6 the work employment history and family history that has been
7 presented to me through the letters, talking about what a
8 responsible person and helpful person you are, and stable
9 person, but the allegation is that perhaps you used all of
10 your skills to participate in a large drug operation. We
11 are talking about over -- I think it is over 100 kilos of
12 cocaine being seized at the border, and the evidence in this
13 case is somewhat strong; that is another factor for me to
14 consider since the police apparently arrested two other
15 individuals who indicated to the police your involvement.
16 In fact they arrested you at the border and chased you down
17 when this was all going down.

18 It is true that many Canadians are released and most
19 Canadians -- not all, but most return, but everybody's
20 situation is different. There are many Canadians who have
21 only lived in Canada. They have no ties to anywhere else,
22 and although you have mostly -- most of your ties, adult
23 ties, especially, to Canada, you are kind of in a unique
24 situation in that you do have another country to go to.
25 Your passport, as I understand it, is in fact in Canada,

1 which means if you go back, we have no way of actually
2 tracking whether you leave from Canada.

3 Your lawyer did argue that you have no reason to flee,
4 and I say perhaps that is not exactly true, because as the
5 government argues, there is a reason to flee if you face,
6 potentially, over 10 years of imprisonment. It may not be
7 the ideal situation to flee, but nonetheless it does provide
8 a reason.

9 So -- and I will also note that the fact that there are
10 in fact pending criminal charges in your country of
11 residence is also another sign in terms of the risks as to
12 whether to release or to detain you.

13 So for all those reasons, Mr. Sandhu, I am going to
14 enter a detention order and order you detained pending the
15 outcome of your case.

16 All right, Ms. Borichewski, anything further at this
17 point?

18 MS. BORICHEWSKI: No, thank you, Your Honor.

19 THE COURT: And Ms. Deutsch, anything further at
20 this point?

21 MS. DEUTSCH: Your Honor, I would just like to
22 point out to the Court that the amount of drugs involved,
23 10.76 kilos, not 100 --

24 THE COURT: I'm sorry.

25 MS. DEUTSCH: Okay.

1 MS. BORICHEWSKI: I represented the Court over
2 \$500,000, and I'm sorry, I probably confused the issue.

3 THE COURT: All right.

4 In any event, the detention order will stand and
5 anything further, Ms. Deutsch, at this point? A

6 MS. DEUTSCH: No, Your Honor.

7 THE COURT: All right.

8 All right, we will be at recess.

9 THE CLERK: All rise. The Court is in recess.

10 (End of proceedings for 12/22/2011)

11 CERTIFICATE

12 I certify that the foregoing is a correct transcript from the
13 electronic sound recording of the proceedings in the above-
14 entitled matter.

15 /Brian J. Killgore/

January 3, 2012

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